

S/N: 10/042,841
Reply to Office Action of July 15, 2003

Atty Dkt No. RPC 0505 PUS1 (formerly RPC 0598 PUS)

Remarks

Claims 1-7 and 9-26 were pending in this application. Claims 1 and 4 have been amended, new claim 27 has been added, and no claims have been canceled. Reconsideration of this application is respectfully requested in light of the above amendments and the following remarks.

Applicant wishes to thank the Examiner for extending the courtesy of a telephone interview on September 9, 2003. During the interview, the Examiner withdrew the double patenting rejection over U.S. Patent No. 5,992,673 and indicated that amended claim 1 and new claim 27 appear to be allowable over the cited art.

Specification

The Examiner has indicated that the first line of the specification appears to lack a reference to every patent in the lineage of the instant application. Applicant appreciates the Examiner's careful review of the application, and has amended the first line of the specification to properly reference the grandparent and great-grandparent applications.

Rejection of Claim 4 Under 35 U.S.C. § 112

Claim 4 has been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite due to the recitation of "the intermediate edges." Again, Applicant appreciates the Examiner's careful review of the application, and has amended claim 4 to recite "the intermediate edge" which finds antecedent basis in claim 3 from which claim 4 depends. This amendment is made solely to address the rejection under 35 U.S.C. § 112 and adds no new element. Accordingly, Applicant respectfully requests reconsideration and withdrawal of this rejection.

Double Patenting

The Examiner has rejected claims 1-7 and 9-24 under obviousness-type double patenting as being unpatentable over claims 1-9 and 4-32 of U.S. Patent No. 6,036,049. In response, Applicant has filed a terminal disclaimer in compliance with 37 C.F.R. § 1.321(c)

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concurrently herewith. As mentioned above, the Examiner withdrew the double patenting rejection over U.S. Patent No. 5,992,673 in the interview of September 9, 2003. Therefore, reconsideration and withdrawal of this rejection is respectfully requested.

Rejection of Claims 1-2 and 5

Under 35 U.S.C. § 102(e) or 35 U.S.C. § 103(a) Over Hoftman

The Examiner has rejected claims 1-2 and 5 under 35 U.S.C. § 102(e) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 5,938,063 issued to Hoftman ("Hoftman"). In response, Applicant has amended claim 1 as agreed upon by the Examiner in the aforementioned telephone interview to be patentably distinguishable over the cited art.

Specifically, claim 1 has been amended to recite "the pivot member sized to receive the at least one engaging member without requiring deflection of the at least one engaging member" (*see* p. 8, lines 4-21; FIG. 9). In contrast, Hoftman discloses a container having a lid which is secured thereto via a snap-fit arrangement. In order to engage or disengage the hinge pin shaft 205 from the dual claw hinge 114 in the open position 100A, outward bending of the single claws 115 is required (*see* Hoftman, col. 8, lines 23-35; FIGS. 2-5). Hoftman further states that "[b]ecause of the quadruple pressure needed to disengage all four single claws 115 at one time, accidental disengagement by picking up an opened box by one half is virtually eliminated" (*see* Hoftman, col. 8, lines 32-35). Clearly, Hoftman does not disclose or suggest that the hinge components are sized to engage each other without requiring deflection of the claws 115 as in Applicant's claimed invention.

For these reasons, Applicant believes that claim 1 is patentably distinguishable over Hoftman. Accordingly, reconsideration and withdrawal of the rejection of claim 1, along with its corresponding dependent claims, under 35 U.S.C. § 102(e) or 35 U.S.C. § 103(a) are respectfully requested.

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Rejection of Claim 12**Under 35 U.S.C. § 103(a) Over Hoftman**

Claim 12 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Hoftman. Claim 12 depends from and contains all the limitations of independent claim 1 which, as explained above, is believed to be patentably distinguishable over Hoftman. Therefore, Applicant respectfully requests reconsideration and withdrawal of this rejection.

Rejection of Claims 3-4**Under 35 U.S.C. § 103(a) Over Hoftman and Paxton**

Claims 3-4 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Hoftman in view of Paxton. Claims 3-4 depend from and contain all the limitations of independent claim 1 which, for the reasons stated above, is believed to be patentably distinguishable over Hoftman, either alone or in combination with Paxton. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 3-4 under 35 U.S.C. § 103(a).

Allowable Subject Matter

Applicant appreciates the Examiner's indication that claims 6-7, 9, 11, and 18-26 would be allowable if the non-statutory double patenting rejection is overcome. Due to the terminal disclaimer filed concurrently herewith, Applicant believes that these claims are now in allowable condition.

Applicant also appreciates the Examiner's indication that claims 10 and 13-17 would be allowable if rewritten to overcome the double patenting rejection and to include the limitations of the base claim and any intervening claims. Claims 10 and 13-17 depend from and contain all the limitations of claim 1, which is believed to be patentably distinguishable over the cited art as explained above. For these reasons, as well as the terminal disclaimer filed herewith, Applicant believes that claims 10 and 13-17 are now also in allowable condition.

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New Claim

New claim 27 has been added which recites "when the lid moves to a second position approximately 180° from the first position, the at least one engaging member is able to move freely past the pivot member to allow the lid to become detachable from the pivot member" (*see* p. 8, lines 4-21; FIG. 9). As agreed upon by the Examiner in the aforementioned telephone interview, claim 27 is believed to be patentable distinguishable over the cited art.

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Conclusion

In summary, Applicant believes that the claims, as amended, now meet all formal and substantive requirements and that the case is in appropriate condition for allowance. Accordingly, such action is respectfully requested. If a telephone conference would expedite allowance of the case or resolve any further questions, such a call is invited at the Examiner's convenience.

Please charge the additional claims filing fee of \$84.00, as well as charge any additional fees or credit any overpayments as a result of the filing of this paper, to our Deposit Account No. 02-3978.

Respectfully submitted,

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